

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1607

Introduced by Senator Machado

February 24, 2006

An act to amend Sections 69.5, 214, 214.8, 218, 254.5, 254.6, and 1840 of, and to add Section 218.05 to, the Revenue and Taxation Code, and to amend Section 2 of Chapter 48 of the Statutes of 1987, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1607, as amended, Machado. Property taxation.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution and existing property tax law exclude from a "change in ownership" specified property transfers between parents and their children and grandparents and their grandchildren. Existing law states the intent of the Legislature that the statute excluding from a "change in ownership" property transfers between parents and their children be liberally construed, as specified.

This bill would state the intent of the Legislature that the statute excluding from a "change in ownership" property transfers between grandparents and their grandchildren also be liberally construed, as specified.

(2) Existing property tax law authorizes a person aged 55 years or older or who is severely and permanently disabled to transfer the base year value, as defined, of his or her principal residence to a comparable replacement dwelling, as specified, if, among other conditions, the person files a claim for this transfer within 3 years from the date the replacement dwelling was purchased or newly constructed. ~~Existing law specifies that these claim forms are not subject to public inspection except to the transferee and the transferor or their respective spouses, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.~~

This bill would authorize a person to file a claim to transfer a base year value to a comparable replacement dwelling after the 3-year period required under existing law, but would preclude a refund or cancellation of taxes for prior years for which the claim was not filed, as provided. ~~This bill would also specify that claims filed to transfer a base year value to a comparable replacement dwelling are subject to public inspection only by the claimant, the claimant's spouse, the claimant's legal representative, and the executor or administrator of the claimant's estate, and would make legislative findings regarding the purpose of these provisions.~~

(3) Existing property tax law, in accordance with the California Constitution, provides for a “welfare exemption” for property that is used exclusively for religious, hospital, or charitable purposes if certain conditions are met. Existing law specifies that exempt property does not lose that status under the welfare exemption because another organization also uses the property, if the other organization meets certain conditions, including a condition that the other organization's owner submit an organizational clearance certificate with the county assessor, as specified.

This bill would instead require either the owner of the exempt property or the other organization that uses the exempt property to submit to the assessor a letter or ruling from the Franchise Tax Board or the Internal Revenue Service regarding the tax-exempt status of the organization under state or federal income tax laws, as provided.

(4) Existing law specifies that the property of a limited liability company may qualify for the welfare exemption if that company and its property meet all of the requirements set forth for that exemption.

This bill would clarify that a limited liability company that has a governmental entity or a nonprofit organization as a member may

qualify as an exempt entity. This bill would also specify that each nonprofit tax-exempt member of a limited liability company is to submit to the State Board of Equalization a letter or ruling from the Franchise Tax Board or the Internal Revenue Service regarding the tax-exempt status of the member under state or federal income tax laws, as provided. This bill would also make technical changes regarding limited liability companies and the welfare exemption.

(5) Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined.

This bill would provide that a qualified dwelling, as defined, that is damaged or destroyed is not disqualified from receiving the homeowners' exemption if certain conditions are met. This bill would also specify that a dwelling that does not exist on the lien date because it has been totally destroyed in a disaster is disqualified from receiving the homeowner's exemption until the structure has been replaced and is occupied as a dwelling.

(6) Existing law establishes a veterans' organization property tax exemption. Existing law prohibits the county assessor from approving a claim for the veterans' organization exemption or welfare exemption until the claimant has received an organizational clearance certificate, as specified, from the State Board of Equalization. Existing law requires board staff to issue an organizational clearance certificate to an entity that qualifies for the property tax welfare exemption, but does not expressly require the board staff to issue an organizational clearance certificate to an organization that seeks the veterans' organization exemption.

This bill would similarly require board staff to issue an organizational clearance certificate to an entity that qualifies for the veterans' organization exemption. This bill also would make conforming changes to related provisions.

(7) The California Constitution generally exempts property that is owned by a local government from property taxation, except in certain instances. Existing law authorizes a county, city and county, or municipal corporation that owns taxable property to apply to the State Board of Equalization for a review, equalization, or adjustment of a property tax assessment relating to this property. Existing law requires that this application be submitted to the board on or before the later of

either the 3rd Monday in July or within 2 weeks of the date upon which a county assessor delivers that assessment to the county auditor.

This bill would instead require that this application be submitted to the board on or before the later of either July 20 or within 2 weeks of the date upon which a county assessor delivers the assessment to the county auditor.

(8) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them to the bill.

(9) By changing the manner in which county officials process claims for transferring base year values to comparable replacement properties, the veterans' organization exemption, and the homeowners' exemption, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 69.5 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 69.5. (a) (1) Notwithstanding any other provision of law,
- 4 pursuant to subdivision (a) of Section 2 of Article XIII A of the
- 5 California Constitution, any person over the age of 55 years, or
- 6 any severely and permanently disabled person, who resides in
- 7 property that is eligible for the homeowners' exemption under
- 8 subdivision (k) of Section 3 of Article XIII of the California

1 Constitution and Section 218 may transfer, subject to the
2 conditions and limitations provided in this section, the base year
3 value of that property to any replacement dwelling of equal or
4 lesser value that is located within the same county and is
5 purchased or newly constructed by that person as his or her
6 principal residence within two years of the sale by that person of
7 the original property, provided that the base year value of the
8 original property shall not be transferred to the replacement
9 dwelling until the original property is sold.

10 (2) Notwithstanding the limitation in paragraph (1) requiring
11 that the original property and the replacement dwelling be
12 located in the same county, this limitation shall not apply in any
13 county in which the county board of supervisors, after
14 consultation with local affected agencies within the boundaries of
15 the county, adopts an ordinance making the provisions of
16 paragraph (1) also applicable to situations in which replacement
17 dwellings are located in that county and the original properties
18 are located in another county within this state. The authorization
19 contained in this paragraph shall be applicable in a county only if
20 the ordinance adopted by the board of supervisors complies with
21 all of the following requirements:

22 (A) It is adopted only after consultation between the board of
23 supervisors and all other local affected agencies within the
24 county's boundaries.

25 (B) It requires that all claims for transfers of base year value
26 from original property located in another county be granted if the
27 claims meet the applicable requirements of both subdivision (a)
28 of Section 2 of Article XIII A of the California Constitution and
29 this section.

30 (C) It requires that all base year valuations of original property
31 located in another county and determined by its assessor be
32 accepted in connection with the granting of claims for transfers
33 of base year value.

34 (D) It provides that its provisions are operative for a period of
35 not less than five years.

36 (E) The ordinance specifies the date on and after which its
37 provisions shall be applicable. However, the date specified shall
38 not be earlier than November 9, 1988. The specified applicable
39 date may be a date earlier than the date the county adopts the
40 ordinance.

1 (b) In addition to meeting the requirements of subdivision (a),
2 any person claiming the property tax relief provided by this
3 section shall be eligible for that relief only if the following
4 conditions are met:

5 (1) The claimant is an owner and a resident of the original
6 property either at the time of its sale, or at the time when the
7 original property was substantially damaged or destroyed by
8 misfortune or calamity, or within two years of the purchase or
9 new construction of the replacement dwelling.

10 (2) The original property is eligible for the homeowners'
11 exemption, as the result of the claimant's ownership and
12 occupation of the property as his or her principal residence, either
13 at the time of its sale, or at the time when the original property
14 was substantially damaged or destroyed by misfortune or
15 calamity, or within two years of the purchase or new construction
16 of the replacement dwelling.

17 (3) At the time of the sale of the original property, the
18 claimant or the claimant's spouse who resides with the claimant
19 is at least 55 years of age, or is severely and permanently
20 disabled.

21 (4) At the time of claiming the property tax relief provided by
22 subdivision (a), the claimant is an owner of a replacement
23 dwelling and occupies it as his or her principal place of residence
24 and, as a result thereof, the property is currently eligible for the
25 homeowners' exemption or would be eligible for the exemption
26 except that the property is already receiving the exemption
27 because of an exemption claim filed by the previous owner.

28 (5) The original property of the claimant is sold by him or her
29 within two years of the purchase or new construction of the
30 replacement dwelling. For purposes of this paragraph, the
31 purchase or new construction of the replacement dwelling
32 includes the purchase of that portion of land on which the
33 replacement building, structure, or other shelter constituting a
34 place of abode of the claimant will be situated and that, pursuant
35 to paragraph (3) of subdivision (g), constitutes a part of the
36 replacement dwelling.

37 (6) The replacement dwelling, including that portion of land
38 on which it is situated that is specified in paragraph (5), is located
39 entirely within the same county as the claimant's original
40 property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A manufactured home or a manufactured home and any land owned by the claimant on which the manufactured home is situated. For purposes of this paragraph, "land owned by the claimant" includes a pro rata interest in a resident-owned

1 mobilehome park that is assessed pursuant to subdivision (b) of
2 Section 62.1.

3 (A) If the manufactured home or the manufactured home and
4 the land on which it is situated constitutes the claimant's original
5 property, the assessor shall transfer to the claimant's replacement
6 dwelling either the base year value of the manufactured home or
7 the base year value of the manufactured home and the land on
8 which it is situated, as appropriate. If the manufactured home
9 dwelling that constitutes the original property of the claimant
10 includes an interest in a resident-owned mobilehome park, the
11 assessor shall transfer to the claimant's replacement dwelling the
12 base year value of the claimant's manufactured home and his or
13 her pro rata portion of the real property of the park. No transfer
14 of base year value shall be made by the assessor of that portion of
15 land that does not constitute a part of the original property, as
16 provided in paragraph (4) of subdivision (g).

17 (B) If the manufactured home or the manufactured home and
18 the land on which it is situated constitutes the claimant's
19 replacement dwelling, the assessor shall transfer the base year
20 value of the claimant's original property either to the
21 manufactured home or the manufactured home and the land on
22 which it is situated, as appropriate. If the manufactured home
23 dwelling that constitutes the replacement dwelling of the
24 claimant includes an interest in a resident-owned mobilehome
25 park, the assessor shall transfer the base year value of the
26 claimant's original property to the manufactured home of the
27 claimant and his or her pro rata portion of the park. No transfer
28 of base year value shall be made by the assessor to that portion of
29 land that does not constitute a part of the replacement dwelling,
30 as provided in paragraph (3) of subdivision (g).

31 This subdivision shall be subject to the limitations specified in
32 subdivision (d).

33 (d) The property tax relief provided by this section shall be
34 available to a claimant who is the coowner of the original
35 property, as a joint tenant, a tenant in common, or a community
36 property owner, subject to the following limitations:

37 (1) If a single replacement dwelling is purchased or newly
38 constructed by all of the coowners and each coowner retains an
39 interest in the replacement dwelling, the claimant shall be

1 eligible under this section whether or not any or all of the
2 remaining coowners would otherwise be eligible claimants.

3 (2) If two or more replacement dwellings are separately
4 purchased or newly constructed by two or more coowners and
5 more than one coowner would otherwise be an eligible claimant,
6 only one coowner shall be eligible under this section. These
7 coowners shall determine by mutual agreement which one of
8 them shall be deemed eligible.

9 (3) If two or more replacement dwellings are separately
10 purchased or newly constructed by two coowners who held the
11 original property as community property, only the coowner who
12 has attained the age of 55 years, or is severely and permanently
13 disabled, shall be eligible under this section. If both spouses are
14 over 55 years of age, they shall determine by mutual agreement
15 which one of them is eligible.

16 In the case of coowners whose original property is a multiunit
17 dwelling, the limitations imposed by paragraphs (2) and (3) shall
18 only apply to coowners who occupied the same dwelling unit
19 within the original property at the time specified in paragraph (2)
20 of subdivision (b).

21 (e) Upon the sale of original property, the assessor shall
22 determine a new base year value for that property in accordance
23 with subdivision (a) of Section 2 of Article XIII A of the
24 California Constitution and Section 110.1, whether or not a
25 replacement dwelling is subsequently purchased or newly
26 constructed by the former owner or owners of the original
27 property.

28 This section shall not apply unless the transfer of the original
29 property is a change in ownership that either (1) subjects that
30 property to reappraisal at its current fair market value in
31 accordance with Section 110.1 or 5803 or (2) results in a base
32 year value determined in accordance with this section, Section
33 69, or Section 69.3 because the property qualifies under this
34 section, Section 69, or Section 69.3 as a replacement dwelling or
35 property.

36 (f) A claimant shall not be eligible for the property tax relief
37 provided by this section unless the claimant provides to the
38 assessor, on a form that the assessor shall make available upon
39 request, the following information:

1 (1) The name and social security number of each claimant and
2 of any spouse of the claimant who is a record owner of the
3 replacement dwelling.

4 (2) Proof that the claimant or the claimant's spouse who
5 resided on the original property with the claimant was, at the
6 time of its sale, at least 55 years of age, or severely and
7 permanently disabled. Proof of severe and permanent disability
8 shall be considered a certification, signed by a licensed physician
9 and surgeon of appropriate specialty, attesting to the claimant's
10 severely and permanently disabled condition. In the absence of
11 available proof that a person is over 55 years of age, the claimant
12 shall certify under penalty of perjury that the age requirement is
13 met. In the case of a severely and permanently disabled claimant
14 either of the following shall be submitted:

15 (A) A certification, signed by a licensed physician or surgeon
16 of appropriate specialty that identifies specific reasons why the
17 disability necessitates a move to the replacement dwelling and
18 the disability-related requirements, including any locational
19 requirements, of a replacement dwelling. The claimant shall
20 substantiate that the replacement dwelling meets
21 disability-related requirements so identified and that the primary
22 reason for the move to the replacement dwelling is to satisfy
23 those requirements. If the claimant, or the claimant's spouse or
24 guardian, so declares under penalty of perjury, it shall be
25 rebuttably presumed that the primary purpose of the move to the
26 replacement dwelling is to satisfy identified disability-related
27 requirements.

28 (B) The claimant's substantiation that the primary purpose of
29 the move to the replacement dwelling is to alleviate financial
30 burdens caused by the disability. If the claimant, or the
31 claimant's spouse or guardian, so declares under penalty of
32 perjury, it shall be rebuttably presumed that the primary purpose
33 of the move is to alleviate the financial burdens caused by the
34 disability.

35 (3) The address and, if known, the assessor's parcel number of
36 the original property.

37 (4) The date of the claimant's sale of the original property and
38 the date of the claimant's purchase or new construction of a
39 replacement dwelling.

1 (5) A statement by the claimant that he or she occupied the
2 replacement dwelling as his or her principal place of residence on
3 the date of the filing of his or her claim.

4 The State Board of Equalization shall design the form for
5 claiming eligibility.

6 Any claim under this section shall be filed within three years of
7 the date the replacement dwelling was purchased or the new
8 construction of the replacement dwelling was completed subject
9 to subdivision (k) or (m).

10 (g) For purposes of this section:

11 (1) “Person over the age of 55 years” means any person or the
12 spouse of any person who has attained the age of 55 years or
13 older at the time of the sale of the original property.

14 (2) “Base year value of the original property” means its base
15 year value, as determined in accordance with Section 110.1, with
16 the adjustments permitted by subdivision (b) of Section 2 of
17 Article XIII A of the California Constitution and subdivision (f)
18 of Section 110.1, determined as of the date immediately prior to
19 the date that the original property is sold by the claimant, or in
20 the case where the original property has been substantially
21 damaged or destroyed by misfortune or calamity and the owner
22 does not rebuild on the original property, determined as of the
23 date immediately prior to the misfortune or calamity.

24 If the replacement dwelling is purchased or newly constructed
25 after the transfer of the original property, “base year value of the
26 original property” also includes any inflation factor adjustments
27 permitted by subdivision (f) of Section 110.1 for the period
28 subsequent to the sale of the original property. The base year or
29 years used to compute the “base year value of the original
30 property” shall be deemed to be the base year or years of any
31 property to which that base year value is transferred pursuant to
32 this section.

33 (3) “Replacement dwelling” means a building, structure, or
34 other shelter constituting a place of abode, whether real property
35 or personal property, that is owned and occupied by a claimant as
36 his or her principal place of residence, and any land owned by the
37 claimant on which the building, structure, or other shelter is
38 situated. For purposes of this paragraph, land constituting a part
39 of a replacement dwelling includes only that area of reasonable
40 size that is used as a site for a residence, and “land owned by the

1 claimant” includes land for which the claimant either holds a
2 leasehold interest described in subdivision (c) of Section 61 or a
3 land purchase contract. Each unit of a multiunit dwelling shall be
4 considered a separate replacement dwelling. For purposes of this
5 paragraph, “area of reasonable size that is used as a site for a
6 residence” includes all land if any nonresidential uses of the
7 property are only incidental to the use of the property as a
8 residential site. For purposes of this paragraph, “land owned by
9 the claimant” includes an ownership interest in a resident-owned
10 mobilehome park that is assessed pursuant to subdivision (b) of
11 Section 62.1.

12 (4) “Original property” means a building, structure, or other
13 shelter constituting a place of abode, whether real property or
14 personal property, that is owned and occupied by a claimant as
15 his or her principal place of residence, and any land owned by the
16 claimant on which the building, structure, or other shelter is
17 situated. For purposes of this paragraph, land constituting a part
18 of the original property includes only that area of reasonable size
19 that is used as a site for a residence, and “land owned by the
20 claimant” includes land for which the claimant either holds a
21 leasehold interest described in subdivision (c) of Section 61 or a
22 land purchase contract. Each unit of a multiunit dwelling shall be
23 considered a separate original property. For purposes of this
24 paragraph, “area of reasonable size that is used as a site for a
25 residence” includes all land if any nonresidential uses of the
26 property are only incidental to the use of the property as a
27 residential site. For purposes of this paragraph, “land owned by
28 the claimant” includes an ownership interest in a resident-owned
29 mobilehome park that is assessed pursuant to subdivision (b) of
30 Section 62.1.

31 (5) “Equal or lesser value” means that the amount of the full
32 cash value of a replacement dwelling does not exceed one of the
33 following:

34 (A) One hundred percent of the amount of the full cash value
35 of the original property if the replacement dwelling is purchased
36 or newly constructed prior to the date of the sale of the original
37 property.

38 (B) One hundred and five percent of the amount of the full
39 cash value of the original property if the replacement dwelling is

1 purchased or newly constructed within the first year following
2 the date of the sale of the original property.

3 (C) One hundred and ten percent of the amount of the full cash
4 value of the original property if the replacement dwelling is
5 purchased or newly constructed within the second year following
6 the date of the sale of the original property.

7 For the purposes of this paragraph, except as otherwise
8 provided in paragraph (4) of subdivision (h), if the replacement
9 dwelling is, in part, purchased and, in part, newly constructed,
10 the date the “replacement dwelling is purchased or newly
11 constructed” is the date of purchase or the date of completion of
12 construction, whichever is later.

13 (6) “Full cash value of the replacement dwelling” means its
14 full cash value, determined in accordance with Section 110.1, as
15 of the date on which it was purchased or new construction was
16 completed, and after the purchase or the completion of new
17 construction.

18 (7) “Full cash value of the original property” means, either:

19 (A) Its new base year value, determined in accordance with
20 subdivision (e), without the application of subdivision (h) of
21 Section 2 of Article XIII A of the California Constitution, plus
22 the adjustments permitted by subdivision (b) of Section 2 of
23 Article XIII A and subdivision (f) of Section 110.1 for the period
24 from the date of its sale by the claimant to the date on which the
25 replacement property was purchased or new construction was
26 completed.

27 (B) In the case where the original property has been
28 substantially damaged or destroyed by misfortune or calamity
29 and the owner does not rebuild on the original property, its full
30 cash value, as determined in accordance with Section 110,
31 immediately prior to its substantial damage or destruction by
32 misfortune or calamity, as determined by the county assessor of
33 the county in which the property is located, without the
34 application of subdivision (h) of Section 2 of Article XIII A of
35 the California Constitution, plus the adjustments permitted by
36 subdivision (b) of Section 2 of Article XIII A and subdivision (f)
37 of Section 110.1, for the period from the date of its sale by the
38 claimant to the date on which the replacement property was
39 purchased or new construction was completed.

1 (8) “Sale” means any change in ownership of the original
2 property for consideration.

3 (9) “Claimant” means any person claiming the property tax
4 relief provided by this section. If a spouse of that person is a
5 record owner of the replacement dwelling, the spouse is also a
6 claimant for purposes of determining whether in any future claim
7 filed by the spouse under this section the condition of eligibility
8 specified in paragraph (7) of subdivision (b) has been met.

9 (10) “Property that is eligible for the homeowners’ exemption”
10 includes property that is the principal place of residence of its
11 owner and is entitled to exemption pursuant to Section 205.5.

12 (11) “Person” means any individual, but does not include any
13 firm, partnership, association, corporation, company, or other
14 legal entity or organization of any kind.

15 (12) “Severely and permanently disabled” means any person
16 described in subdivision (b) of Section 74.3.

17 (13) For the purposes of this section property is “substantially
18 damaged or destroyed by misfortune or calamity” if it sustains
19 physical damage amounting to more than 50 percent of its full
20 cash value immediately prior to the misfortune or calamity.
21 Damage includes a diminution in the value of property as a result
22 of restricted access to the property where the restricted access
23 was caused by the misfortune or calamity and is permanent in
24 nature.

25 (h) (1) Upon the timely filing of a claim, the assessor shall
26 adjust the new base year value of the replacement dwelling in
27 conformity with this section. This adjustment shall be made as of
28 the latest of the following dates:

29 (A) The date the original property is sold.

30 (B) The date the replacement dwelling is purchased.

31 (C) The date the new construction of the replacement dwelling
32 is completed.

33 (2) Any taxes that were levied on the replacement dwelling
34 prior to the filing of the claim on the basis of the replacement
35 dwelling’s new base year value, and any allowable annual
36 adjustments thereto, shall be canceled or refunded to the claimant
37 to the extent that the taxes exceed the amount that would be due
38 when determined on the basis of the adjusted new base year
39 value.

1 (3) Notwithstanding Section 75.10, Chapter 3.5 (commencing
2 with Section 75) shall be utilized for purposes of implementing
3 this subdivision, including adjustments of the new base year
4 value of replacement dwellings acquired prior to the sale of the
5 original property.

6 (4) In the case where a claim under this section has been
7 timely filed and granted, and new construction is performed upon
8 the replacement dwelling subsequent to the transfer of base year
9 value, the property tax relief provided by this section also shall
10 apply to the replacement dwelling, as improved, and thus there
11 shall be no reassessment upon completion of the new
12 construction if both of the following conditions are met:

13 (A) The new construction is completed within two years of the
14 date of the sale of the original property and the owner notifies the
15 assessor in writing of completion of the new construction within
16 30 days after completion.

17 (B) The fair market value of the new construction on the date
18 of completion, plus the full cash value of the replacement
19 dwelling on the date of acquisition, is not more than the full cash
20 value of the original property as determined pursuant to
21 paragraph (7) of subdivision (g) for purposes of granting the
22 original claim.

23 (i) Any claimant may rescind a claim for the property tax
24 relief provided by this section and shall not be considered to have
25 received that relief for purposes of paragraph (7) of subdivision
26 (b), and the assessor shall grant the rescission, if a written notice
27 of rescission is delivered to the office of the assessor as follows:

28 (1) A written notice of rescission signed by the original filing
29 claimant or claimants is delivered to the office of the assessor in
30 which the original claim was filed.

31 (2) (A) Except as otherwise provided in this paragraph, the
32 notice of rescission is delivered to the office of the assessor
33 before the date that the county first issues, as a result of relief
34 granted under this section, a refund check for property taxes
35 imposed upon the replacement dwelling. If granting relief will
36 not result in a refund of property taxes, then the notice shall be
37 delivered before payment is first made of any property taxes, or
38 any portion thereof, imposed upon the replacement dwelling
39 consistent with relief granted under this section. If payment of
40 the taxes is not made, then notice shall be delivered before the

1 first date that those property taxes, or any portion thereof,
2 imposed upon the replacement dwelling, consistent with relief
3 granted under this section, are delinquent.

4 (B) Notwithstanding any other provision in this division, any
5 time the notice of rescission is delivered to the office of the
6 assessor within six years after relief was granted, provided that
7 the replacement property has been vacated as the claimant's
8 principal place of residence within 90 days after the original
9 claim was filed, regardless of whether the property continues to
10 receive the homeowners' exemption. If the rescission increases
11 the base year value of a property, or the homeowners' exemption
12 has been incorrectly allowed, appropriate escape assessments or
13 supplemental assessments, including interest as provided in
14 Section 506, shall be imposed. The limitations periods for any
15 escape assessments or supplemental assessments shall not
16 commence until July 1 of the assessment year in which the notice
17 of rescission is delivered to the office of the assessor.

18 (3) The notice is accompanied by the payment of a fee as the
19 assessor may require, provided that the fee shall not exceed an
20 amount reasonably related to the estimated cost of processing a
21 rescission claim, including both direct costs and developmental
22 and indirect costs, such as costs for overhead, personnel,
23 supplies, materials, office space, and computers.

24 (j) (1) With respect to the transfer of base year value of
25 original properties to replacement dwellings located in the same
26 county, this section, except as provided in paragraph (3) or (4),
27 shall apply to any replacement dwelling that is purchased or
28 newly constructed on or after November 6, 1986.

29 (2) With respect to the transfer of base year value of original
30 properties to replacement dwellings located in different counties,
31 except as provided in paragraph (4), this section shall apply to
32 any replacement dwelling that is purchased or newly constructed
33 on or after the date specified in accordance with subparagraph
34 (E) of paragraph (2) of subdivision (a) in the ordinance of the
35 county in which the replacement dwelling is located, but shall not
36 apply to any replacement dwelling which was purchased or
37 newly constructed before November 9, 1988.

38 (3) With respect to the transfer of base year value by a
39 severely and permanently disabled person, this section shall

1 apply only to replacement dwellings that are purchased or newly
2 constructed on or after June 6, 1990.

3 (4) The amendments made to subdivision (e) by the act adding
4 this paragraph shall apply only to replacement dwellings under
5 Section 69 that are acquired or newly constructed on or after
6 October 20, 1991, and shall apply commencing with the 1991-92
7 fiscal year.

8 (k) (1) In the case in which a county adopts an ordinance
9 pursuant to paragraph (2) of subdivision (a) that establishes an
10 applicable date which is more than three years prior to the date of
11 adoption of the ordinance, those potential claimants who
12 purchased or constructed replacement dwellings more than three
13 years prior to the date of adoption of the ordinance and who
14 would, therefore, be precluded from filing a timely claim, shall
15 be deemed to have timely filed a claim if the claim is filed within
16 three years after the date that the ordinance is adopted. This
17 paragraph may not be construed as a waiver of any other
18 requirement of this section.

19 (2) In the case in which a county assessor corrects a base year
20 value to reflect a pro rata change in ownership of a
21 resident-owned mobilehome park that occurred between January
22 1, 1989, and January 1, 2002, pursuant to paragraph (4) of
23 subdivision (b) of Section 62.1, those claimants who purchased
24 or constructed replacement dwellings more than three years prior
25 to the correction and who would, therefore, be precluded from
26 filing a timely claim, shall be deemed to have timely filed a claim
27 if the claim is filed within three years of the date of notice of the
28 correction of the base year value to reflect the pro rata change in
29 ownership. This paragraph may not be construed as a waiver of
30 any other requirement of this section.

31 (3) This subdivision does not apply to a claimant who has
32 transferred his or her replacement dwelling prior to filing a claim.

33 (4) The property tax relief provided by this section, but filed
34 under this subdivision, shall apply prospectively only,
35 commencing with the lien date of the assessment year in which
36 the claim is filed. There shall be no refund or cancellation of
37 taxes prior to the date that the claim is filed.

38 (l) No escape assessment may be levied if a transfer of base
39 year value under this section has been erroneously granted by the

1 assessor pursuant to an expired ordinance authorizing intercounty
2 transfers of base year value.

3 (m) (1) The amendments made to subdivisions (b) and (g) of
4 this section by Chapter 613 of the Statutes of 2001 shall apply:

5 (A) With respect to the transfer of base year value of original
6 properties to replacement dwellings located in the same county,
7 to any replacement dwelling that is purchased or newly
8 constructed on or after November 6, 1986.

9 (B) With respect to the transfer of base year value of original
10 properties to replacement dwellings located in different counties,
11 to any replacement dwelling that is purchased or newly
12 constructed on or after the date specified in accordance with
13 subparagraph (E) of paragraph (2) of subdivision (a) in the
14 ordinance of the county in which the replacement dwelling is
15 located, but not to any replacement dwelling that was purchased
16 or newly constructed before November 9, 1988.

17 (C) With respect to the transfer of base year value by a
18 severely and permanently disabled person, to replacement
19 dwellings that are purchased or newly constructed on or after
20 June 6, 1990.

21 (2) The property tax relief provided by this section in
22 accordance with this subdivision shall apply prospectively only
23 commencing with the lien date of the assessment year in which
24 the claim is filed. There shall be no refund or cancellation of
25 taxes prior to the date that the claim is filed. Notwithstanding
26 subdivision (f), a claim shall be deemed to be timely filed if it is
27 filed within four years after the operative date of the act adding
28 this paragraph.

29 (n) A claim filed under this section is not a public document
30 and is not subject to public inspection, except that a claim shall
31 be available for inspection by the ~~claimant or the claimant's~~
32 ~~spouse, the claimant's legal representative, and the executor or~~
33 ~~administrator of the claimant's estate.~~ *transferee and the*
34 *transferor or their respective spouse, the transferee's legal*
35 *representative, the transferor's legal representative, and the*
36 *executor or administrator of the transferee's or transferor's*
37 *estate.*

38 (o) With respect to property to which a transfer of base year
39 value was available, but for which a timely claim was not filed, a

1 transfer of base year value may be granted prospectively under
2 this subdivision.

3 (1) For transfers of base year value that were not timely
4 claimed, any property tax relief applies prospectively only,
5 commencing with the lien date following the assessment year in
6 which the claim is filed. There shall be no refund or cancellation
7 of taxes that accrued prior to the date that the claim is filed.

8 (2) For any claim that was not timely filed prior to January 1,
9 2007, the claimant may refile a claim with the assessor.

10 SEC. 2. Section 214 of the Revenue and Taxation Code is
11 amended to read:

12 214. (a) Property used exclusively for religious, hospital,
13 scientific, or charitable purposes owned and operated by
14 community chests, funds, foundations, limited liability
15 companies, or corporations organized and operated for religious,
16 hospital, scientific, or charitable purposes is exempt from
17 taxation, including ad valorem taxes to pay the interest and
18 redemption charges on any indebtedness approved by the voters
19 prior to July 1, 1978, or any bonded indebtedness for the
20 acquisition or improvement of real property approved on or after
21 July 1, 1978, by two-thirds of the votes cast by the voters voting
22 on the proposition, if:

23 (1) The owner is not organized or operated for profit.
24 However, in the case of hospitals, the organization shall not be
25 deemed to be organized or operated for profit if, during the
26 immediately preceding fiscal year, operating revenues, exclusive
27 of gifts, endowments and grants-in-aid, did not exceed operating
28 expenses by an amount equivalent to 10 percent of those
29 operating expenses. As used herein, operating expenses include
30 depreciation based on cost of replacement and amortization of,
31 and interest on, indebtedness.

32 (2) No part of the net earnings of the owner inures to the
33 benefit of any private shareholder or individual.

34 (3) The property is used for the actual operation of the exempt
35 activity, and does not exceed an amount of property reasonably
36 necessary to the accomplishment of the exempt purpose.

37 (A) For the purposes of determining whether the property is
38 used for the actual operation of the exempt activity, consideration
39 shall not be given to use of the property for either or both of the
40 following described activities if that use is occasional:

1 (i) The owner conducts fundraising activities on the property
2 and the proceeds derived from those activities are not unrelated
3 business taxable income, as defined in Section 512 of the Internal
4 Revenue Code, of the owner and are used to further the exempt
5 activity of the owner.

6 (ii) The owner permits any other organization that meets all of
7 the requirements of this subdivision, other than ownership of the
8 property, to conduct fundraising activities on the property and the
9 proceeds derived from those activities are not unrelated business
10 taxable income, as defined in Section 512 of the Internal
11 Revenue Code, of the organization, are not subject to the tax on
12 unrelated business taxable income that is imposed by Section 511
13 of the Internal Revenue Code, and are used to further the exempt
14 activity of the organization.

15 (B) For purposes of subparagraph (A):

16 (i) “Occasional use” means use of the property on an irregular
17 or intermittent basis by the qualifying owner or any other
18 qualifying organization described in clause (ii) of subparagraph
19 (A) that is incidental to the primary activities of the owner or the
20 other organization.

21 (ii) “Fundraising activities” means both activities involving
22 the direct solicitation of money or other property and the
23 anticipated exchange of goods or services for money between the
24 soliciting organization and the organization or person solicited.

25 (C) Subparagraph (A) shall have no application in determining
26 whether paragraph (3) has been satisfied unless the owner of the
27 property and any other organization using the property as
28 provided in subparagraph (A) have filed with the assessor a valid
29 organizational clearance certificate issued pursuant to Section
30 254.6.

31 (D) For the purposes of determining whether the property is
32 used for the actual operation of the exempt activity, consideration
33 shall not be given to the use of the property for meetings
34 conducted by any other organization if the meetings are
35 incidental to the other organization’s primary activities, are not
36 fundraising meetings or activities as defined in subparagraph (B),
37 are held no more than once per week, and the other organization
38 and its use of the property meet all other requirements of
39 paragraphs (1) to (5), inclusive, of this subdivision. The owner or
40 the other organization also shall file with the assessor a copy of a

1 valid, unrevoked letter or ruling from the Internal Revenue
2 Service or the Franchise Tax Board stating that the other
3 organization, or the national organization of which it is a local
4 chapter or affiliate, qualifies as an exempt organization under
5 Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code or
6 Section 23701d, 23701f, or 23701w.

7 (E) Nothing in subparagraph (A), (B), (C), or (D) shall be
8 construed to either enlarge or restrict the exemption provided for
9 in subdivision (b) of Section 4 and Section 5 of Article XIII of
10 the California Constitution and this section.

11 (4) The property is not used or operated by the owner or by
12 any other person so as to benefit any officer, trustee, director,
13 shareholder, member, employee, contributor, or bondholder of
14 the owner or operator, or any other person, through the
15 distribution of profits, payment of excessive charges or
16 compensations, or the more advantageous pursuit of their
17 business or profession.

18 (5) The property is not used by the owner or members thereof
19 for fraternal or lodge purposes, or for social club purposes except
20 where that use is clearly incidental to a primary religious,
21 hospital, scientific, or charitable purpose.

22 (6) The property is irrevocably dedicated to religious,
23 charitable, scientific, or hospital purposes and upon the
24 liquidation, dissolution, or abandonment of the owner will not
25 inure to the benefit of any private person except a fund,
26 foundation, or corporation organized and operated for religious,
27 hospital, scientific, or charitable purposes.

28 (7) The property, if used exclusively for scientific purposes, is
29 used by a foundation or institution that, in addition to complying
30 with the foregoing requirements for the exemption of charitable
31 organizations in general, has been chartered by the Congress of
32 the United States (except that this requirement shall not apply
33 when the scientific purposes are medical research), and whose
34 objects are the encouragement or conduct of scientific
35 investigation, research, and discovery for the benefit of the
36 community at large.

37 The exemption provided for herein shall be known as the
38 “welfare exemption.” This exemption shall be in addition to any
39 other exemption now provided by law, and the existence of the
40 exemption provision in paragraph (2) of subdivision (a) of

1 Section 202 shall not preclude the exemption under this section
2 for museum or library property. Except as provided in
3 subdivision (e), this section shall not be construed to enlarge the
4 college exemption.

5 (b) Property used exclusively for school purposes of less than
6 collegiate grade and owned and operated by religious, hospital,
7 or charitable funds, foundations, limited liability companies, or
8 corporations, which property and funds, foundations, limited
9 liability companies, or corporations meet all of the requirements
10 of subdivision (a), shall be deemed to be within the exemption
11 provided for in subdivision (b) of Section 4 and Section 5 of
12 Article XIII of the California Constitution and this section.

13 (c) Property used exclusively for nursery school purposes and
14 owned and operated by religious, hospital, or charitable funds,
15 foundations, limited liability companies, or corporations, which
16 property and funds, foundations, limited liability companies, or
17 corporations meet all the requirements of subdivision (a), shall be
18 deemed to be within the exemption provided for in subdivision
19 (b) of Section 4 and Section 5 of Article XIII of the California
20 Constitution and this section.

21 (d) Property used exclusively for a noncommercial educational
22 FM broadcast station or an educational television station, and
23 owned and operated by religious, hospital, scientific, or
24 charitable funds, foundations, limited liability companies, or
25 corporations meeting all of the requirements of subdivision (a),
26 shall be deemed to be within the exemption provided for in
27 subdivision (b) of Section 4 and Section 5 of Article XIII of the
28 California Constitution and this section.

29 (e) Property used exclusively for religious, charitable,
30 scientific, or hospital purposes and owned and operated by
31 religious, hospital, scientific, or charitable funds, foundations,
32 limited liability companies, or corporations or educational
33 institutions of collegiate grade, as defined in Section 203, which
34 property and funds, foundations, limited liability companies,
35 corporations, or educational institutions meet all of the
36 requirements of subdivision (a), shall be deemed to be within the
37 exemption provided for in subdivision (b) of Section 4 and
38 Section 5 of Article XIII of the California Constitution and this
39 section. As to educational institutions of collegiate grade, as
40 defined in Section 203, the requirements of paragraph (6) of

subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational purposes, to religious and educational purposes, or to educational purposes.

(2) The articles of incorporation of the educational institution provide for distribution of its property upon its liquidation, dissolution, or abandonment to a fund, foundation, or corporation organized and operated for religious, hospital, scientific, charitable, or educational purposes meeting the requirements for exemption provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

The amendment of this paragraph made by Chapter 1102 of the Statutes of 1984 does not constitute a change in, but is declaratory of, existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for elderly or handicapped families at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or that is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), shall not be entitled

1 to exemption pursuant to this subdivision unless the property is
2 used for housing and related facilities for low- and
3 moderate-income elderly or handicapped families. Property that
4 would otherwise be exempt pursuant to this subdivision, except
5 that it includes some housing and related facilities for other than
6 low- or moderate-income elderly or handicapped families, shall
7 be entitled to a partial exemption. The partial exemption shall be
8 equal to that percentage of the value of the property that is equal
9 to the percentage that the number of low- and moderate-income
10 elderly and handicapped families occupying the property
11 represents of the total number of families occupying the property.

12 As used in this subdivision, “low and moderate income” has
13 the same meaning as the term “persons and families of low or
14 moderate income” as defined by Section 50093 of the Health and
15 Safety Code.

16 (g) (1) Property used exclusively for rental housing and
17 related facilities and owned and operated by religious, hospital,
18 scientific, or charitable funds, foundations, limited liability
19 companies, or corporations, including limited partnerships in
20 which the managing general partner is an eligible nonprofit
21 corporation or eligible limited liability company, meeting all of
22 the requirements of this section, or by veterans’ organizations, as
23 described in Section 215.1, meeting all the requirements of
24 paragraphs (1) to (7), inclusive, of subdivision (a), shall be
25 deemed to be within the exemption provided for in subdivision
26 (b) of Section 4 and Section 5 of Article XIII of the California
27 Constitution and this section and shall be entitled to a partial
28 exemption equal to that percentage of the value of the property
29 that the portion of the property serving lower income households
30 represents of the total property in any year in which either of the
31 following criteria applies:

32 (A) The acquisition, rehabilitation, development, or operation
33 of the property, or any combination of these factors, is financed
34 with tax-exempt mortgage revenue bonds or general obligation
35 bonds, or is financed by local, state, or federal loans or grants and
36 the rents of the occupants who are lower income households do
37 not exceed those prescribed by deed restrictions or regulatory
38 agreements pursuant to the terms of the financing or financial
39 assistance.

1 (B) The owner of the property is eligible for and receives
2 low-income housing tax credits pursuant to Section 42 of the
3 Internal Revenue Code of 1986, as added by Public Law 99-514.

4 (C) In the case of a claim, other than a claim with respect to
5 property owned by a limited partnership in which the managing
6 general partner is an eligible nonprofit corporation, that is filed
7 for the 2000–01 fiscal year or any fiscal year thereafter, 90
8 percent or more of the occupants of the property are lower
9 income households whose rent does not exceed the rent
10 prescribed by Section 50053 of the Health and Safety Code. The
11 total exemption amount allowed under this subdivision to a
12 taxpayer, with respect to a single property or multiple properties
13 for any fiscal year on the sole basis of the application of this
14 subparagraph, may not exceed twenty thousand dollars (\$20,000)
15 of tax.

16 (2) In order to be eligible for the exemption provided by this
17 subdivision, the owner of the property shall do both of the
18 following:

19 (A) (i) For any claim filed for the 2000–01 fiscal year or any
20 fiscal year thereafter, certify and ensure, subject to the limitation
21 in clause (ii), that there is an enforceable and verifiable
22 agreement with a public agency, a recorded deed restriction, or
23 other legal document that restricts the project’s usage and that
24 provides that the units designated for use by lower income
25 households are continuously available to or occupied by lower
26 income households at rents that do not exceed those prescribed
27 by Section 50053 of the Health and Safety Code, or, to the extent
28 that the terms of federal, state, or local financing or financial
29 assistance conflicts with Section 50053, rents that do not exceed
30 those prescribed by the terms of the financing or financial
31 assistance.

32 (ii) In the case of a limited partnership in which the managing
33 general partner is an eligible nonprofit corporation, the restriction
34 and provision specified in clause (i) shall be contained in an
35 enforceable and verifiable agreement with a public agency, or in
36 a recorded deed restriction to which the limited partnership
37 certifies.

38 (B) Certify that the funds that would have been necessary to
39 pay property taxes are used to maintain the affordability of, or

1 reduce rents otherwise necessary for, the units occupied by lower
2 income households.

3 (3) As used in this subdivision, “lower income households”
4 has the same meaning as the term “lower income households” as
5 defined by Section 50079.5 of the Health and Safety Code.

6 (h) Property used exclusively for an emergency or temporary
7 shelter and related facilities for homeless persons and families
8 and owned and operated by religious, hospital, scientific, or
9 charitable funds, foundations, limited liability companies, or
10 corporations meeting all of the requirements of this section shall
11 be deemed to be within the exemption provided for in
12 subdivision (b) of Section 4 and Section 5 of Article XIII of the
13 California Constitution and this section. Property that otherwise
14 would be exempt pursuant to this subdivision, except that it
15 includes housing and related facilities for other than an
16 emergency or temporary shelter, shall be entitled to a partial
17 exemption.

18 As used in this subdivision, “emergency or temporary shelter”
19 means a facility that would be eligible for funding pursuant to
20 Chapter 11 (commencing with Section 50800) of Part 2 of
21 Division 31 of the Health and Safety Code.

22 (i) Property used exclusively for housing and related facilities
23 for employees of religious, charitable, scientific, or hospital
24 organizations that meet all the requirements of subdivision (a)
25 and owned and operated by funds, foundations, limited liability
26 companies, or corporations that meet all the requirements of
27 subdivision (a) shall be deemed to be within the exemption
28 provided for in subdivision (b) of Section 4 and Section 5 of
29 Article XIII of the California Constitution and this section to the
30 extent the residential use of the property is institutionally
31 necessary for the operation of the organization.

32 (j) For purposes of this section, charitable purposes include
33 educational purposes. For purposes of this subdivision,
34 “educational purposes” means those educational purposes and
35 activities for the benefit of the community as a whole or an
36 unascertainable and indefinite portion thereof, and do not include
37 those educational purposes and activities that are primarily for
38 the benefit of an organization’s shareholders. Educational
39 activities include the study of relevant information, the
40 dissemination of that information to interested members of the

1 general public, and the participation of interested members of the
2 general public.

3 (k) In the case of property used exclusively for the exempt
4 purposes specified in this section, owned and operated by limited
5 liability companies that are organized and operated for those
6 purposes, the State Board of Equalization shall adopt regulations
7 to specify the ownership, organizational, and operational
8 requirements for those companies to qualify for the exemption
9 provided by this section.

10 (l) The amendments made by Chapter 354 of the Statutes of
11 2004 shall apply with respect to lien dates occurring on and after
12 January 1, 2005.

13 SEC. 3. Section 214.8 of the Revenue and Taxation Code is
14 amended to read:

15 214.8. (a) Except as provided in Sections 213.7 and 231, and
16 as provided in subdivision (g) of Section 214 with respect to
17 veterans' organizations, the "welfare exemption" shall not be
18 granted to any organization unless it is qualified as an exempt
19 organization under either Section 23701d of this code or Section
20 501(c)(3) of the Internal Revenue Code. This section shall not be
21 construed to enlarge the "welfare exemption" to apply to
22 organizations qualified under Section 501(c)(3) of the Internal
23 Revenue Code of 1954 but not otherwise qualified for the
24 "welfare exemption" under other provisions of this code.

25 The exemption for veterans' organizations shall not be granted
26 to any organization unless it is qualified as an exempt
27 organization under either Section 23701f or 23701w of this code
28 or under Section 501(c)(4) or 501(c)(19) of the Internal Revenue
29 Code. This section shall not be construed to enlarge the
30 "veterans' organization exemption" to apply to organizations
31 qualified under Section 501(c)(4) or 501(c)(19) of the Internal
32 Revenue Code but not otherwise qualified for the "veterans'
33 organization exemption" under other provisions of this code.

34 (b) For purposes of subdivision (a), an organization shall not
35 be deemed to be qualified as an exempt organization unless the
36 organization files with the assessor a valid organizational
37 clearance certificate issued pursuant to Section 254.6.

38 (c) (1) For purposes of subdivision (a), a limited liability
39 company wholly owned by one or more qualifying organizations,
40 which may include governmental entities and nonprofit

1 organizations, that are exempt under Section 23701d or under
2 Section 501(c)(3) of the Internal Revenue Code shall qualify as
3 an exempt organization.

4 (2) In the case of a limited liability company that does not
5 have a valid unrevoked letter from the Franchise Tax Board or
6 the Internal Revenue Service, the limited liability company may
7 not be deemed to be qualified as an exempt organization unless
8 each nonprofit tax-exempt member of the limited liability
9 company files with the board a copy of a valid, unrevoked letter
10 or ruling from either the Franchise Tax Board or the Internal
11 Revenue Service that states that the organization qualifies as an
12 exempt organization under the appropriate provisions of the
13 Revenue and Taxation Code or the Internal Revenue Code.

14 (d) The amendments made by the act adding this subdivision
15 shall apply with respect to lien dates occurring on and after
16 January 1, 2005.

17 SEC. 4. Section 218 of the Revenue and Taxation Code is
18 amended to read:

19 218. (a) The homeowners' property tax exemption is in the
20 amount of the assessed value of the dwelling specified in this
21 section, as authorized by subdivision (k) of Section 3 of Article
22 XIII of the Constitution. That exemption shall be in the amount
23 of seven thousand dollars (\$7,000) of the full value of the
24 dwelling.

25 (b) The exemption does not extend to property that is rented,
26 vacant, under construction on the lien date, or that is a vacation
27 or secondary home of the owner or owners, nor does it apply to
28 property on which an owner receives the veteran's exemption.

29 (c) For purposes of this section, all of the following apply:

30 (1) "Owner" includes a person purchasing the dwelling under
31 a contract of sale or who holds shares or membership in a
32 cooperative housing corporation, which holding is a requisite to
33 the exclusive right of occupancy of a dwelling.

34 (2) (A) "Dwelling" means a building, structure, or other
35 shelter constituting a place of abode, whether real property or
36 personal property, and any land on which it may be situated. A
37 two-dwelling unit shall be considered as two separate
38 single-family dwellings.

39 (B) "Dwelling" includes the following:

1 (i) A single-family dwelling occupied by an owner thereof as
2 his or her principal place of residence on the lien date.

3 (ii) A multiple-dwelling unit occupied by an owner thereof on
4 the lien date as his or her principal place of residence.

5 (iii) A condominium occupied by an owner thereof as his or
6 her principal place of residence on the lien date.

7 (iv) Premises occupied by the owner of shares or a
8 membership interest in a cooperative housing corporation, as
9 defined in subdivision (i) of Section 61, as his or her principal
10 place of residence on the lien date. Each exemption allowed
11 pursuant to this subdivision shall be deducted from the total
12 assessed valuation of the cooperative housing corporation. The
13 exemption shall be taken into account in apportioning property
14 taxes among owners of share or membership interests in the
15 cooperative housing corporations so as to benefit those owners
16 who qualify for the exemption.

17 (d) The exemption provided for in subdivision (k) of Section 3
18 of Article XIII of the Constitution shall first be applied to the
19 building, structure, or other shelter and the excess, if any, shall be
20 applied to any land on which it may be located.

21 SEC. 5. Section 218.05 is added to the Revenue and Taxation
22 Code, to read:

23 218.05. (a) A qualified dwelling is not disqualified from
24 receiving the homeowners' exemption if both of the following
25 are true:

26 (1) The owner's absence from the qualified dwelling is
27 temporary.

28 (2) The owner intends to return to the qualified dwelling when
29 possible to do so.

30 (b) "Qualified dwelling" means both of the following:

31 (1) A dwelling that is vacant on the lien date because it was
32 partially destroyed or damaged in a disaster, including, but not
33 limited to, a fire or flood.

34 (2) A dwelling that has been totally destroyed in a
35 Governor-declared disaster and that qualified for the
36 homeowners' exemption prior to that disaster.

37 (c) A dwelling that does not exist on the lien date because the
38 dwelling has been totally destroyed in a disaster is disqualified
39 from receiving the homeowner's exemption until the structure
40 has been replaced and is occupied as a dwelling.

SEC. 6. Section 254.5 of the Revenue and Taxation Code is amended to read:

254.5. (a) Claims for the welfare exemption and the veterans' organization exemption shall be filed on or before February 15 of each year with the assessor.

The assessor may not approve a property tax exemption claim until the claimant has been issued a valid organizational clearance certificate pursuant to Section 254.6. Financial statements shall be submitted only if requested in writing by the assessor.

(b) (1) The assessor shall review all claims for the welfare exemption to ascertain whether the property on which the exemption is claimed meets the requirements of Section 214. The assessor shall also review all claims for the veterans' organization exemption to ascertain whether the property on which the exemption is claimed meets the requirements of Section 215.1. In this connection, the assessor shall consider, among other matters, whether:

(A) Any capital investment of the owner or operator for expansion of a physical plant is justified by the contemplated return thereon, and required to serve the interests of the community.

(B) The property on which the exemption is claimed is used for the actual operation of an exempt activity and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(2) The assessor may institute an audit or verification of the operations of the owner or operator of the applicant's property to ascertain whether both the owner and operator meet the requirements of Section 214.

(c) (1) The assessor may deny a claim for the welfare exemption on a property, notwithstanding that the claimant has been granted an organizational clearance certificate by the board.

(2) If the assessor finds that the claimant's property is ineligible for the welfare exemption or the veterans' organization exemption, the assessor shall notify the claimant in writing of all of the following:

(A) That the property is ineligible for the exemption.

(B) That the claimant may seek a refund of property taxes paid by filing a refund claim with the county.

1 (C) That if the claimant's refund claim with the county is
2 denied, the claimant may file a refund action in superior court.

3 (d) Notwithstanding subdivision (a), an applicant, granted a
4 welfare exemption and owning any property exempted pursuant
5 to Section 214.15 or Section 231, shall not be required to reapply
6 for the welfare exemption in any subsequent year in which there
7 has been no transfer of, or other change in title to, the exempted
8 property and the property is used exclusively by a governmental
9 entity or by a nonprofit corporation described in Section 214.15
10 for its interest and benefit. The applicant shall notify the assessor
11 on or before February 15 if, on or before the preceding lien date,
12 the applicant became ineligible for the welfare exemption or if,
13 on or before that lien date, the property was no longer owned by
14 the applicant or otherwise failed to meet all requirements for the
15 welfare exemption.

16 Prior to the lien date, the assessor shall annually mail a notice
17 to every applicant relieved of the requirement of filing an annual
18 application by this subdivision.

19 The notice shall be in a form and contain that information that
20 the board may prescribe, and shall set forth the circumstances
21 under which the property may no longer be eligible for
22 exemption, and advise the applicant of the duty to inform the
23 assessor if the property is no longer eligible for exemption.

24 The notice shall include a card that is to be returned to the
25 assessor by any applicant desiring to maintain eligibility for the
26 welfare exemption under Section 214.15 or Section 231. The
27 card shall be in the following form:

28
29 To all persons who have received a welfare exemption under
30 Section 214.15 or Section 231 of the Revenue and Taxation
31 Code for the ____ fiscal year.

32 Question: Will the property to which the exemption applies in
33 the ____ fiscal year continue to be used exclusively by
34 government or by an organization as described in Section
35 214.15 for its interest and benefit in the ____ fiscal year?

36
37 YES ____ NO ____

38
39 Signature: _____

40 Title: _____

1 Failure to return this card does not of itself constitute a waiver
2 of exemption as called for by the California Constitution, but
3 may result in onsite inspection to verify exempt activity.
4

5 (e) Upon any indication that a welfare exemption or veterans'
6 organization exemption on the property has been incorrectly
7 granted, the assessor shall redetermine eligibility for the
8 exemption. If the assessor determines that the property, or any
9 portion thereof, is no longer eligible for the exemption, he or she
10 shall immediately cancel the exemption on so much of the
11 property as is no longer eligible for the exemption.

12 (f) If a welfare exemption or veterans' organization exemption
13 on the property has been incorrectly allowed, an escape
14 assessment as provided by Article 4 (commencing with Section
15 531) of Chapter 3 in the amount of the exemption, with interest
16 as provided in Section 506, shall be made, and a penalty shall be
17 assessed for any failure to notify the assessor as required by this
18 section in an amount equaling 10 percent of the escape
19 assessment, but may not exceed two hundred fifty dollars (\$250).

20 (g) Pursuant to Section 15640 of the Government Code, the
21 board shall review the assessor's administration of the welfare
22 exemption and the veterans' organization exemption as part of
23 the board's survey of the county assessment roll to ensure the
24 proper administration of the exemption.

25 SEC. 7. Section 254.6 of the Revenue and Taxation Code is
26 amended to read:

27 254.6. (a) An organization that intends to claim the welfare
28 exemption or veterans' organization exemption shall file with the
29 State Board of Equalization a claim for an organizational
30 clearance certificate.

31 (b) The board staff shall review each claim for an
32 organizational clearance certificate for the welfare exemption to
33 ascertain whether the organization meets the requirements of
34 Section 214 and shall issue a certificate to a claimant that meets
35 these requirements. The board staff shall also review each claim
36 for an organizational clearance certificate for the veterans'
37 organization exemption to ascertain whether the organization
38 meets the requirements of Section 215.1 and shall issue a
39 certificate to a claimant that meets these requirements. In this

1 connection, the board staff shall consider, among other matters,
2 whether:

3 (1) The services and expenses of the owner or operator
4 (including salaries) are excessive, based upon like services and
5 salaries in comparable public or private institutions.

6 (2) The operations of the owner or operator, either directly or
7 indirectly, materially enhance the private gain of any individual
8 or individuals.

9 (c) Any claim of any organization that files for an
10 organizational clearance certificate for the first time shall be
11 accompanied by the claimant's corporate identification number,
12 mailing address, and all of the following documents:

13 (1) A certified copy of the financial statements of the
14 organization.

15 (2) A certified copy of the articles of incorporation and any
16 amendments thereto, or in the case of any noncorporate fund or
17 foundation, its bylaws, articles of association, constitution, or
18 regulations and any amendments thereto.

19 (3) A copy of a valid, unrevoked letter or ruling from either
20 the Franchise Tax Board or, in the alternative, the Internal
21 Revenue Service, that states that the organization qualifies as an
22 exempt organization under the appropriate provisions of the
23 Bank and Corporation Tax Law or the Internal Revenue Code.

24 (d) (1) If the board staff determines that a claimant is not
25 eligible for an organizational clearance certificate, the board shall
26 notify the claimant of the ineligibility.

27 (2) The claimant may file an appeal of the board staff's
28 finding of ineligibility with the board within 60 days of the date
29 of mailing of the notice of ineligibility. The appeal of the board
30 staff's finding shall be in writing and shall state the specific
31 grounds upon which the appeal is founded.

32 (3) The board shall conduct a hearing on the appeal in
33 accordance with any rules of notice, procedure, and briefing as
34 the board shall prescribe. The parties to the hearing or proceeding
35 shall be the board staff and the claimant appealing the finding of
36 ineligibility. The board staff and the claimant may agree in
37 writing to submit the matter to the board for a decision without a
38 hearing. The board shall provide written findings and conclusions
39 or a written decision to support its decision.

(e) (1) Once granted, an organizational clearance certificate for the welfare exemption remains valid until the board staff determines that the organization no longer meets the requirements of Section 214. Once granted, an organizational clearance certificate for the veterans' organization exemption remains valid until the board staff determines that the organization no longer meets the requirements of Section 215.1.

(2) If the board staff determines that the organization no longer meets the requirements for an organizational clearance certificate, the board staff shall revoke the certificate and notify the claimant and each county assessor of the revocation.

(3) The organization may file an appeal of the board staff's revocation with the board within 60 days of the date of mailing of the notice revocation. The appeal of the revocation shall be in writing and shall state the specific grounds upon which the appeal is founded.

(4) The board shall conduct a hearing on the appeal in accordance with any rules of notice, procedure, and briefing as the board shall prescribe. The parties to the hearing or proceeding shall be the board staff and the claimant appealing the finding of ineligibility. The board staff and the claimant may agree in writing to submit the matter to the board for decision without hearing. The board shall provide written findings and conclusions or a written decision to support its decision.

(f) Pursuant to Section 15618 of the Government Code, the board may institute an audit or verification of an organization to ascertain whether the organization meets the requirements of Section 214.

SEC. 8. Section 1840 of the Revenue and Taxation Code is amended to read:

1840. If any county, city and county, or municipal corporation desires to secure a review, equalization, or adjustment of the assessment of its property by the board pursuant to subdivision (g) of Section 11 of Article XIII of the California Constitution, it shall apply to the board therefor in writing on or before July 20, or within two weeks after the completion and delivery by the assessor of the local roll containing the assessment to the auditor as provided in Section 617, whichever is the later. If the assessment objected to is one made outside the regular period for such assessments, the

1 application for review shall be filed with the board within 60
2 days from the date the tax bill is mailed to the assessee.

3 Every application shall show the facts claimed to require action
4 of the board, and a copy thereof shall be filed with the assessor
5 whose assessment is questioned. Upon receipt of a timely
6 application, the board shall afford the applicant notice and a
7 hearing in accordance with such rules and regulations as the
8 board may prescribe. The failure to file a timely application shall
9 bar the applicant from relief under subdivision (g) of Section 11
10 of Article XIII or this section.

11 SEC. 9. Section 2 of Chapter 48 of the Statutes of 1987 is
12 amended to read:

13 SEC. 2. (a) It is the intent of the Legislature that the
14 provisions of Section 63.1 of the Revenue and Taxation Code
15 shall be liberally construed in order to carry out the intent of both
16 of the following:

17 (1) Proposition 58 on the November 4, 1986, general election
18 ballot to exclude from change in ownership purchases or
19 transfers between parents and their children described therein.

20 (2) Proposition 193 on the March 26, 1996, primary election
21 ballot to exclude from change in ownership purchases or
22 transfers between grandparents and their grandchildren described
23 therein.

24 (b) Specifically, transfers of real property from a corporation,
25 partnership, trust, or other legal entity to an eligible transferor or
26 transferors, where the latter are the sole owner or owners of the
27 entity or are the sole beneficial owner or owners of the property,
28 shall be fully recognized and shall not be ignored or given less
29 than full recognition under a substance-over-form or
30 step-transaction doctrine, where the sole purpose of the transfer
31 is to permit an immediate retransfer from an eligible transferor or
32 transferors to an eligible transferee or transferees which qualifies
33 for the exclusion from change in ownership provided by Section
34 63.1. Further, transfers of real property between eligible
35 transferors and eligible transferees shall also be fully recognized
36 when the transfers are immediately followed by a transfer from
37 the eligible transferee or eligible transferees to a corporation,
38 partnership, trust, or other legal entity where the transferee or
39 transferees are the sole owner or owners of the entity or are the
40 sole beneficial owner or owners of the property, if the transfer

1 between eligible transferors and eligible transferees satisfies the
2 requirements of Section 63.1.

3 (c) Except as provided herein, this section shall not be
4 construed as an expression of intent on the part of the Legislature
5 disapproving in principle the appropriate application of the
6 substance-over-form or step-transaction doctrine.

7 ~~SEC. 10. The Legislature finds and declares that Section 1 of~~
8 ~~this act, which amends Section 69.5 of the Revenue and Taxation~~
9 ~~Code, imposes limitations on the public's right of access to the~~
10 ~~writings of public officials and agencies within the meaning of~~
11 ~~Section 3 of Article I of the California Constitution. Pursuant to~~
12 ~~that constitutional provision, the Legislature makes the following~~
13 ~~findings to demonstrate the interest protected by this limitation~~
14 ~~and the need for protecting that interest:~~

15 ~~(a) Claims filed under Section 69.5 contain taxpayer sensitive~~
16 ~~personal information, including social security numbers, dates of~~
17 ~~birth, home addresses, home telephone numbers, marital status,~~
18 ~~and medical information. Notwithstanding Section 3 of Article I~~
19 ~~of the California Constitution, county assessors have a~~
20 ~~responsibility and an obligation to safeguard from public access~~
21 ~~a taxpayer's personal information with which it has been~~
22 ~~entrusted.~~

23 ~~(b) The right to privacy is a personal and fundamental right~~
24 ~~protected by Section 1 of Article I of the California Constitution~~
25 ~~and by the United States Constitution. All individuals have a~~
26 ~~right of privacy in information pertaining to them.~~

27 ~~(c) This state has previously recognized, in Section 408.2 of~~
28 ~~the Revenue and Taxation Code, the importance of protecting the~~
29 ~~confidentiality and privacy of an individual's personal and~~
30 ~~financial information contained in homeowners' exemption~~
31 ~~claims, property statements, and change of ownership statements~~
32 ~~filed with county assessors for property tax purposes.~~

33 ~~(d) In addition to the right of privacy, there is a need to protect~~
34 ~~from public disclosure personal information due to the growing~~
35 ~~prevalence and debilitating nature of identity theft.~~

36 ~~(e) It is not the intent of this act to make confidential that a~~
37 ~~particular property has received a property tax benefit under~~
38 ~~Section 69.5 of the Revenue and Taxation Code, or the amount of~~
39 ~~the benefit, but only to protect the personal information~~
40 ~~contained in the claim form. In addition, the Legislature further~~

1 ~~finds that in determining the fiscal impact resulting from either of~~
2 ~~these provisions, county assessors may provide aggregated data~~
3 ~~on property in their counties that have been extended this~~
4 ~~property tax benefit.~~

5 ~~SEC. 11.~~

6 *SEC. 10.* Notwithstanding Section 2229 of the Revenue and
7 Taxation Code, no appropriation is made by this act and the state
8 shall not reimburse any local agency for any property tax
9 revenues lost by it pursuant to this act.

10 ~~SEC. 12.~~

11 *SEC. 11.* If the Commission on State Mandates determines
12 that this act contains costs mandated by the state, reimbursement
13 to local agencies and school districts for those costs shall be
14 made pursuant to Part 7 (commencing with Section 17500) of
15 Division 4 of Title 2 of the Government Code.